

### **REMARKS**

In view of the above amendments and the following remarks, reconsideration of the rejections contained in the Office Action of July 8, 2005 is respectfully requested.

In order to make necessary editorial corrections, the entire specification and abstract have been reviewed and revised. As the revisions are quite extensive, the amendments to the specification and abstract have been incorporated into the attached substitute specification and abstract. For the Examiner's benefit, a marked-up copy of the specification indicating the changes made thereto is also enclosed. No new matter has been added by the revisions. Entry of the substitute specification is thus respectfully requested.

The Examiner rejected previously-pending claims 7-30 under 35 U.S.C. § 112, second paragraph, as being indefinite. In particular, the Examiner asserted that it was unclear whether the claims were directed to a combination of a stapler and a staple, or merely a stapler. In addition, the Examiner cited several examples of unclear language or language that lacked proper antecedent basis in the original claims. In view of these rejections, and in order to place the original claims in preferred form and sequence, the original claims have been cancelled and replaced with new claims 31-52, including new independent claims 31, 33, and 51. Specifically, the new claims have been drafted in order to address these specific formal matters raised by the Examiner, and in order to fully comply with all of the requirements of 35 U.S.C. § 112. Accordingly, it is respectfully submitted that the Examiner's rejections under § 112 are not applicable to the new claims.

The Examiner rejected claims 7-30 under 35 U.S.C. § 102(b) as being anticipated by either the JP '782 reference (Japanese Publication 2-126782) or the JP '570 reference (Japanese Publication 3-208570). However, as indicated above, the original claims have been cancelled and replaced with new claims 31-52. For the reasons discussed below, it is respectfully submitted that the new claims are clearly patentable over the prior art of record.

In the rejection, the Examiner asserted that the features of the staple recited in the original claims were given no patentable weight because the staple itself was not being claimed. However, it is submitted that the stapler *and* the features of the staple itself were positively

recited within the body the original claims and, therefore, were entitled to patentable weight. Nonetheless, as noted above, the original claims have now been replaced with a set of new claims that each clearly recite various features of a staple. In particular, new independent claim 51 is a sub-combination claim including elements of a staple, while independent claims 31 and 33 (and the claims that depend therefrom) are combination claims directed to an apparatus that includes all of the elements of the staple recited in independent claim 51, as well as features of the stapler.

In particular, independent claims 31, 33, and 51 all recite that each staple has a right shoulder part and a left shoulder part against which a staple pusher is to abut, and leg parts extending substantially perpendicular from the shoulder parts. An arbitrarily-shaped pattern part is located between the right shoulder part and the left shoulder part and is inclined with respect to the leg parts, and a *thickness of the pattern part is smaller than a width of each of the leg parts*.

Without any intention of limiting the claims to any specific embodiments set forth in this application, the Examiner's attention is directed to page 10, line 22 through page 11, line 7 of the original specification, which describes one example of the staple recited in each of independent claims 31, 33, and 51. As illustrated in Figure 10, the thickness T of the pattern part 27 is smaller than the width W of each of the leg parts 23. Therefore, the pattern part 27 or the shoulder part 21 of one staple will not interfere with the pattern part 27 or the shoulder part 21 of an adjacent staple, even if multiple staples 20 are closely arranged in parallel (as illustrated in Figure 10).

The JP '782 reference discloses a stapler and a staple (see Figures 5-8). However, the JP '782 reference does not disclose or even suggest that a thickness of a pattern part is smaller than a width of each of the leg parts, as recited in new independent claim 31. Therefore, it is respectfully submitted that the JP '782 reference does not anticipate or even suggest the invention recited in independent claims 31, 33, and 51.

The JP '570 reference discloses a stapler device and a staple (see Figures 6-9). However, the JP '570 reference does not disclose or even suggest that a thickness of a pattern part is smaller than a width of each of the leg parts, as recited in new independent claim 31. Therefore,

it is respectfully submitted that the JP '570 reference does not anticipate or even suggest the invention recited in independent claims 31, 33, and 51.

The remaining prior art of record also does not disclose or even suggest the invention as recited in each of independent claims 31, 33, and 51. Accordingly, it is respectfully submitted that new claims 31-52 are clearly patentable over the prior art of record.

In view of the above amendments and remarks, it is submitted that the present application is now in condition for allowance. However, if the Examiner should have any comments or suggestions to help speed the prosecution of this application, the Examiner is requested to contact the Applicant's undersigned representative.

Respectfully submitted,

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